IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

CRP.No. 1816 of 2002(C)

AA.58/1999 of APPELLATE AUTHORITY, KANNUR
SA.381/1976 of LAND TRIBUNAL, TALIPARAMBA

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REVN. PETITIONER: APPELLANT/3RD PARTY:

ASLAPPALLIL GOPALAN, S/O. NARAYANAN,
RESIDING AT NEW NADUVIL AMSOM,
NADUVIL DESOM, P.O. MANDALAM.

BY ADV. SRI.P.K.RAVISANKAR

RESPONDENTS: STAE AND RESPONDENTS 1 & 3:

1. STATE OF KERALA REPRESENTED BY
CHIEF SECRETARY, TRIVANDRUM.

2. CHAKRAMVEEHA VAYALAIL VIJAYAN,
S/O. RAMAKRISHNAN, RESIDING AST NEW
NADUVIL AMSOM, NADUVIL DESOM,
P.O. MANDALAM.

3. RAVEENDRANATH K.T. (KALLIAD THAZHATH
VEETTIL), ADVOCATE, VADAKKUMBAD
TELLICHERRY.

BY GOVERNMENT PLEADER
SRI.P.K.VIJAYAN
SMT.K.V.JAYALAKSHMY

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 18/10/2007 , THE COURT ON 18/10/2007 PASSED THE FOLLOWING:

C.R.P. 1816/2002

ORDER ON CMP 4408/2002 IN CRP 1816/2002

DISMISSED.

18/10/2007 SD/- (P.R.RAMAN, JUDGE)

// TRUE COPY //

PA TO JUDGE.

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P.R.RAMAN, J.

C.R.P. No. 1816 of 2002

Dated, this the 18th day of October, 2007

O R D E R

This Civil Revision Petition is filed challenging the judgment in A.A.No. 58/99 on the file of the Appellate Authority (LR), Kannur confirming the order of the Land Tribunal, Taliparama in S.A.No. 381/76. An extent of 75 cents of land, in R.S. No. 230 of Naduvil Desom in Naduvil Amsom of Taliparamba Taluk, in respect of which suo motu proceedings were initiated for assignment of the right, title and interest of the land owner in favour of one Chakramvecha Vayalil Vijayan. This was done after due publication as contemplated by the law. In the absence of any objection filed by the parties, purchase certificate was ordered to be granted in favour of the said Vijayan.

2. The appellant, a third party, challenged the said order before the appellate authority, inter alia contended that the purchase certificate issued in favour of Chakramvecha Vayalil Vijayan forms part of the land belonging to him. According to him, an extent of 2 acres of land was assigned in favour of his father by an earlier Land Tribunal proceedings. During the life time of his

father, he has gifted an extent of 60 cents in favour of the revision petitioner herein by registered Gift Deed No. 3908/80. Thus he set up title for an extent of 60 cents of land and contended that the extent of 75 cents of land in respect of which purchase certificate is ordered to be issued in favour of Chakramvecha Vayalil Vijayan overlooking the claim of the petitioner is therefore illegal. But the appellate authority found that the appellant, revision petitioner herein, did not produce the gift deed or any other title deed to prove that he has got the title in respect of the very same land. In the circumstances, the appellate authority cannot be found fault since this is the case where no evidence is adduced by the revision petitioner to prove title of the property. Unless title is established, the question as to whether the very same property has been assigned in favour of some other person cannot be considered. The learned counsel, however, submits that he has produced the gift deed as also the purchase certificate in question before this Court. In the purchase certificate so produced, it is seen that the Land Tribunal, Taliparamba-II has issued the same in favour of Shri. Alappally Narayanan, Naduvil Amsom Desom for an extent of two acres in re-survey No. 230 – Neduvil. All boundaries are also shown

there. He has also produced a certified copy of the gift deed executed by the said Alappally Narayanan in favour of the revision petitioner – his son Alappallil Gopalan. Reference is also made in the said document the purchase certificate referred to above.

3. Therefore, the question would be whether the purchase certificate issued in favour of the petitioner's father includes any land now assigned in favour of Chakramvecha Vayalil Vijayan. Since an opportunity of being heard has to be granted to both the parties including the Chakramvecha Vayalil Vijayan, this document can be produced in evidence in accordance with law. The only course open and available is to allow the C.R.P. by remanding the case before the Land Tribunal for fresh consideration. It is open to the petitioner to produce these documents by way of additional evidence. It will be open to respondents also to adduce further evidence in the matter. The Land Tribunal, after considering such evidence, will dispose of the matter afresh. Therefore, the orders of the Land Tribunal and the appellate authority are hereby set aside and the matter is remanded to the Land Tribunal for fresh consideration in accordance with law. However, since the petitioner did not produce these documents before the appellate authority, the

remand order should be subject to terms. Accordingly, the revision petitioner shall pay an amount of Rs. 2,000/- to the respondents by way of costs through learned counsel appearing before this Court within a period of one month. The C.R.P. is allowed subject to the above terms. All parties shall appear before the Land Tribunal, Taliparamba on 10/12/2007.

Since the petitioner has to produce the purchase certificate before the Land Tribunal, the same shall be returned to the petitioner by substituting a photocopy.

(P.R.RAMAN, JUDGE)

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